

STATE OF NEW MEXICO  
CRIME VICTIMS REPARATION COMMISSION

MICHELLE LUJAN GRISHAM  
GOVERNOR



FRANK ZUBIA  
DIRECTOR

STATE OF NEW MEXICO  
CRIME VICTIMS REPARATION COMMISSION  
6200 Uptown Blvd. NE Suite #210  
Albuquerque, NM 87110

**Meeting Called to Order**

On November 17, 2022, Commission Chair Summa called the November meeting of the New Mexico Crime Victims Reparation Commission to order at 10:03 a.m.

Commission Chair Summa announced the names of the Commission members of the public body and acknowledged those who are participating in person and remotely.

The following Commission Members were present:

Allyn Summa, Commission Chair  
David Karst, Commission Vice Chair (Via Web Cast)  
Cody Rogers, Attorney, Commission Member (Via Web Cast)  
Randal Brown, M.D., Commission Member (Via Web Cast)

The following NMCVRC staff members were present:

Frank Zubia, Director  
MaryEllen Garcia, Grants Bureau Chief  
Moises Valdez, Compensation Bureau Chief (Via Web Cast)  
Cindy Mok, Chief Financial Officer  
Debra Yepa, State Investigator  
Leslie Valenzuela, State Investigator (Via Web Cast)  
Rose Martinez, Compensation Management Analyst (Via Web Cast)

The following attendees were present via webcast:

Delilah Tenorio, Assistant Attorney General's Office

**Review Agenda**

Commission Members reviewed the agenda and Commission Chair Summa asked for a motion to approve the agenda. Commission Member Rogers made the motion to approve. Commission Vice Chair Karst seconded the motion. The motion to approve the agenda was passed unanimously.

The roll-call vote of the Commission was as follows: Commission Chair Summa, aye, Commission Vice Chair Karst, aye, Commission Member Rogers, aye.

**Review and Approval of October 20, 2022, Commission Meeting Minutes**

Commission Chair Summa and Commission members reviewed the Commission meeting minutes for October 20, 2022. Commission Member Rogers made a motion to approve the meeting minutes. Commission Vice Chair Karst seconded the motion. The motion to approve the minutes passed unanimously.

## Commission Meeting November 17, 2022

The roll-call vote of the Commission was as follows: Commission Chair Summa, aye, Commission Vice Chair Karst, aye, Commission Member Rogers, aye.

### Public Comment

No Public Comment

### Agency Financial Report

#### FY23 Victim Payment Budget Position and Crime Victims Fund Status

Ms. Mok updated the Commission regarding the fiscal year FY2023 budget position report regarding victim payments for the period of July 1, 2022, through November 9, 2022. The victim payment budget started in the amount of \$2,308,200. The total amount of the compensation victim payouts as of November 9, 2022, is \$952,004.

Ms. Mok informed the Commission that at the rate CVRC is paying out, CVRC will be paying approximately \$1.7 million to close out the fiscal year. In addition, CVRC will have a negative balance of \$392,865. As presented to the Commission last month, CVRC will be utilizing the federal award funds and the CVRC's fund balance to cover the negative balance.

Ms. Mok presented the FY 2023 Crime Victim Fund Budget Status report to the Commission. Below are the payments received for the period of July 01, 2022, to November 9, 2022, by type:

Restitution: \$20,670

Corrections: \$111,433

Civil Settlement: \$5,881

Penalty Assessment: \$49,469

Total received: \$187,453

Ms. Mok reviewed with the Commission the Crime Victims Funds Status report totaling **\$187,453**. She emphasized to the Commission to pay attention to the September column on the report, which showed a substantial payment increase that CVRC has not had for some time, a more considerable amount than projected. Therefore, CVRC is anticipating and is optimistic that we will continue to see an increase in the monthly payment amounts.

Commission Chair Summa inquired with the question; what has contributed to this increase for CVRC? Mr. Zubia informed the Commission that now that the district courts have started to operate in person and also virtually it has made a substantial difference.

Mr. Zubia informed the Commission that the Administrative Office of the Courts (AOC) is the agency that is responsible for collecting the fines and fees that are directed to our office. Therefore, CVRC is anticipating an increase in payments from AOC as the COVID restrictions decrease.

Mr. Zubia stated to Commission that he wanted to revisit the Victim Payment Budget Position Report regarding the negative balance of \$392,865. This anticipated amount for the end of the fiscal year is due to the rate our agency pays out in compensation applications. CVRC can cover these payouts even if there is a negative balance through reserves that CVRC has.

Mr. Zubia informed the Commission that CVRC wants to avoid accessing the reserves. CVRC has funds allocated in the budget, and Mr. Zubia intends to reassure the Commission and not alarm them regarding these shortfalls. CVRC anticipates receiving increased funds from the Administrative Office of the Courts (AOC). Mr. Zubia will keep the Commission informed.

Mr. Zubia informed the Commission that he will ask Ms. Mok to provide to the Commission with the anticipated projections.

## Commission Meeting November 17, 2022

In addition, Mr. Zubia informed the Commission that CVRC is preparing to meet with some legislators and communicate to them how our agency operates, and the financial funds needed to assist victims of violent crime.

Mr. Zubia informed the Commission that for years past, our agency had not received the funding needed to assist victims of crime. In addition, with the increase in violent crimes in New Mexico, our agency is serving more and more victims with fewer revenue sources.

Mr. Zubia informed the Commission that he will send an email to the Commission Members providing strategies when meeting with some legislators independently regarding the funds needed to assist victims of violent crime in our state.

Commission Summa stated that she and the Commission Members are in support of Mr. Zubia and CVRC's efforts, and to inform her and the Commission members how they can provide assistance.

Mr. Zubia thanked the Commission for their support.

### **Agency Audit FY22**

Ms. Mok informed the Commission that CVRC submitted the FY2022 audit report to the State Auditor's office on November 1, 2022. The final draft is currently under review. The final approval of the audit will be released in mid-December or early January.

Ms. Mok thanked Commission Chair Summa for attending the exit conference on October 31. In addition, CVRC met with Lee Baldwin, the auditor, and Ms. Mok informed the Commission that our audit had no findings from last year's audit review. Ms. Mok assured the Commission that we would submit a copy to the Commission Members when CVRC receives the final draft approval from the State Auditor.

Commission Chair Summa stated that she was happy to attend the exit conference and also was pleased that our agency had no findings. She thanked CVRC for the excellent work with the audit.

Mr. Zubia informed the Commission that CVRC can provide a draft copy of the audit if requested by Commission Members. Typically, CVRC provides a final approved copy when it is sent to our agency.

Mr. Zubia informed the Commission that the auditor was very specific on what department they were going to audit and chose to audit the Grants Department. Mr. Zubia commended Ms. Garcia and the Grants department for their excellent work during this audit review.

Mr. Zubia informed the Commission that the auditor referenced auditing the Compensation department. CVRC upholds the confidentiality disclosures regarding claims. This is a major factor for the auditors to reconsider, due to the fact, that they would have to do the audit in person, and in the office. Confidential files are not allowed to leave the agency.

### **New Business**

#### **Towing and Impound Fees (Letter to Mayor Keller)**

Mr. Zubia informed the Commission of a reoccurring issue concerning towing and impound fees that resurfaced in our agency. A dated letter to Mayor Keller was provided to the Commission for review concerning the fees for towing and the impounding of the vehicles of victims of crime. These victims are primarily in the Albuquerque area. CVRC has not seen claims requesting this reimbursement from other parts of the state. The victims from Albuquerque area are requesting that CVRC pay for these fees through either VOCA emergency or compensation funding.

## Commission Meeting November 17, 2022

Mr. Zubia stated that CVRC has paid for some of these towing fees. Although our agency has paid some of these fees, law enforcement agencies submit these expenses for consideration. Mr. Zubia stated that CVRC considers this expense as property which is strictly prohibited by federal guidelines. Therefore, CVRC has only used state appropriation to consider these expenses.

In addition, Mr. Zubia informed the Commission that CVRC has met with Mayor Keller's leadership to address this issue. During this meeting it was disclosed that the City of Albuquerque has contracts with these towing companies. Mr. Zubia informed the Commission that CVRC has attempted to negotiate with the towing companies regarding these fees and CVRC has not always been successful.

Mr. Valdez provided to the Commission detailed information on cases that have been submitted to CVRC for towing reimbursement. These claims submitted by victim's scale from homicides to carjackings. The towing fees are billed to the victims and in turn are submitted to our agency for payment. Towing fees have varied from \$200.00 to \$750.00 dollars per incident.

Mr. Valdez informed the Commission that the towing requests are increasing and are primarily occurring in Albuquerque. CVRC has seen a rise in violent crimes and it appears to be the reason why we are getting higher amounts of requests.

Mr. Zubia stated to the Commission that our agency needs immediate communication concerning the actual towing and impound process that is in place by the City of Albuquerque. Our agency is aware that Albuquerque Police Department (APD) has a policy in place that they follow when towing cars. The notification process to the victims does not take place for a few days and rates can vary and fees can continue to be accrued.

Mr. Zubia informed the Commission that the previous Commission reviewed the concerns associated with these towing fees. They requested information from APD and wanted APD to demonstrate that efforts were made to contact the victim in a timely manner. Then CVRC would consider paying and could attempt to negotiate a better rate with these companies and pay through victim compensation.

Mr. Zubia is asking the Commission to assist CVRC with a plan of action when it comes to dealing with these towing requests.

Ms. Garcia added additional information to inform the Commission that the Albuquerque Police Department and the City of Albuquerque in the past developed a contract with all the towing companies based on a rotation schedule. Ms. Garcia continued with information that APD and the Bernalillo County Sheriff's Department do not tow vehicles themselves. These agencies contract with these towing companies to tow to the evidence compound and victims are not allowed to retrieve vehicles from there. Victims must go to the towing company's impound lot to retrieve their vehicle.

Ms. Garcia stated that there are policies and procedures in place when evidence is complete, APD is instructed to notify victims to retrieve their vehicle from the towing impound and not the police evidence yard. In addition, the requirement in place is that the registered owner is the only person allowed to remove the vehicle. This ensures that the towing company gets paid for their services and sometimes this can lead to additional fees accruing. In this process the towing company has followed the rules in accordance with Public Regulation Commission (PRC).

Commission Chair Summa asked Commission Vice Chair Karst to chime in with this knowledge from his law enforcement background. Commission Vice Chair Karst informed the Commission in detail how the process of towing vehicles his agency followed. Commission Vice Chair Karst offered his perspective and acknowledges that is a difficult situation. Commission Vice Chair Karst informed the Commission that they are a lot of factors involved and that the police agencies do have contracts with towing companies. The towing fees are regulated by the PRC. Also, Commission Vice Chair Karst suggested that CVRC implement a two-part approach. The first

## Commission Meeting November 17, 2022

approach would be to see how the police agency's policy is structured and the second would be to contact the PRC to see if there is something our agency can do. Commission Vice Chair Karst suggested that we put a flat cap amount for towing reimbursement. In addition, possibly asking the victims to check with their insurance provider to see if they can cover these costs.

Mr. Zubia informed the Commission that Mr. Valdez researched with our compensation counterparts across the country to see if any other compensation program has this issue, and no other compensation program pays towing fees.

Mr. Zubia stated to the Commission that at the rate of payouts our agency is paying, CVRC will run out of money if we continue to pay for these fees.

Commission Summa suggested to the Commission that we continue to come up with a solution and impose a cap for an amount. Commission Chair Summa stated she appreciates everyone's input on this matter.

Commission Member Rogers informed the Commission that she will check on the process with the Las Cruces Police Department. She added that the PRC will be dissolved by the end of the year. The new process to appoint members will be appointed by the Governor. Commission Member Rogers informed the Commission that we should hold off contacting the PRC until this process is complete.

Mr. Zubia informed the Commission that CVRC will put this matter on to the agenda for the January Commission meeting.

Mr. Zubia asked the Commission to vote to set a cap for towing fees until the next Commission meeting.

Following the lengthy discussion, the Commission decided to vote to set a cap for towing fees at \$500.00. Commission Chair Summa made a motion to approve a cap for towing fees at \$500.00 dollars. Commission Member Brown seconded the motion. The motion to approve the towing fee cap passed unanimously.

Mr. Zubia conducted the roll-call vote of the Commission was as follows: Commission Chair Summa, aye, Commission Vice Chair Karst, aye, Commission Member Rogers, aye, Commission Chair Brown, aye.

### **Business**

#### **Grants Status Report (VOCA, VAWA, SASP and State)**

The Family Violence Prevention and Services Act (FVPSA) Task Force held one of its final meetings November 9, 2022, to finalize the recommended changes and the accompanying policy recommendations.

The Grants Bureau Chief will be attending a conference in Savannah, Georgia with other VOCA Assistance and Compensation Administrators the week of November 15, 2022.

The Sexual Assault Data Collection group continues to meet to discuss data collection efforts for sexual violence services.

Agencies submitted the 4<sup>th</sup> quarter Performance Measurement Tool (PMT) data for FFY22 VOCA Victim Assistance awards. All data was reviewed by grants staff.

The Grants Bureau Chief continues to work with the VOCA Center around training and technical assistance for states in administering funds.

#### **Proposed Commission Meeting Dates (Voting Item):**

The following dates are proposed meeting dates for 2023:

## Commission Meeting November 17, 2022

January 26, 2023, February 23, 2023, March 23, 2023, April 27, 2023, May 25, 2023, June 22, 2023, August 24, 2023, September 28, 2023, October 26, 2023, November 16, 2023.

Mr. Zubia provided to the Commission proposed dates for the 2023 Commission meetings. The Commission meeting are primarily held on the third Thursday of the month. Commission Chair Summa and Commission members reviewed the dates to ensure that the Commission members are available. Commission Member Brown had previously stated that he had a conflict with the dates and times being proposed.

Commission Chair Summa and Commission members voted to change the Commission meetings to the fourth Thursday of the month. Commission Chair Summa made a motion to change the 2023 Commission meetings to the fourth Thursday of the month at 10:00 a.m. Commission Vice Chair Karst seconded the motion. The motion to approve the Commission meeting dates was passed unanimously.

A roll-call vote of the Commission was as follows: Commission Chair Summa, aye, Commission Vice Chair Karst, aye, Commission Member Rogers, aye, Commission Member Brown, aye.

### Executive Session

At 11:04 a.m., Commission Chair Summa asked for a motion to enter Executive Session. Commission Vice Chair Karst made a motion and Commission Member Rogers seconded the motion.

A roll-call vote of the Commission was as follows: Chair Summa, aye, Commission Member Rogers, aye, Commission Vice Chair Karst, aye.

At 11:30 a.m., Commission Chair Summa made a motion to come out of Executive Session. Commission Vice Chair Karst seconded the motion. The motion passed unanimously.

Commission Chair Summa stated that pursuant to Section 10-15-1(J) NMSA 1978 the matters discussed in the closed meeting (Executive Session) were limited only to those specified in the motion for closure.

### Actions on Items Discussed in Executive Session (Voting Item)

203040

230185

Director Zubia reviewed with the Commission claim #203040 for additional counseling. The will of the Commission regarding claim #203040 for counseling was denied. The motion to deny was passed unanimously.

The roll-call vote is as follows: Commission Chair Summa, nay, Commission Vice Chair Karst, nay, Commission Member Rogers, nay, Commission Member Brown, nay.

Director Zubia reviewed with the Commission claim #230185 for good cause. The will of the Commission regarding claim #230185 for good cause was to approve. The motion to approve was passed unanimously.

The roll-call vote is as follows: Commission Chair Summa, aye, Commission Vice Chair Karst, aye, Commission Member Rogers, aye, Commission Member Brown, aye.

The next Commission meeting has been scheduled for Thursday, January 26, 2022, at 10:00 a.m. at 6200 Uptown Blvd. N.E., Suite #210, Albuquerque, NM in the conference room. This could change to a virtual meeting depending on direction from the Attorney General.

### Adjourned

Commission Chair Summa adjourned the meeting.

Commission Meeting November 17, 2022

The meeting adjourned at 11:32 a.m.

APPROVED:  DATE: 1/26/2023  
Commission Chair Summa